sources. Payments for nonrecurring expenses shall be made either directly by the State agency or through another public or licensed nonprofit private agency.

(h) When the adoption of the child involves interstate placement, the State that enters into an adoption assistance agreement under section 473(a)(1)(B)(ii) of the Act or under a State subsidy program will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other Federal or State adoption assistance, the State in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the requirements of section 473(c).

(i) The term ''nonrecurring adoption expenses'' means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or other funds. ''Other expenses which are directly related to the legal adoption of a child with special needs'' means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption study, including health and psychological examination, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

(j) When State statutes must be amended in order to reimburse parents for nonrecurring expenses in the adoption of eligible children, legislation must be enacted before the close of the second general session following publication of the final rule and must apply retroactively to January 1, 1987. Failure to honor all eligible claims will be considered non-compliance by the State with Title IV-E of the Act.

(k) A State expenditure is considered made in the quarter during which the payment was made by a State agency to a private nonprofit agency, individual or vendor payee.

[53 FR 50220, Dec. 14, 1988]

§ 1356.50 Withholding of funds for noncompliance with the approved title IV-E State plan.

(a) To be in compliance with the title IV-E State plan requirements, a State must meet the requirements of the Act and 45 CFR 1356.20, 1356.21, 1356.30, and 1356.40 of this part.

(b) To be in compliance with the title IV-E State plan requirements, a State that chooses to claim FFP for voluntary placements must meet the requirements of the Act, 45 CFR 1356.22 and paragraph (a) of this section; and

(c) For purposes of this section, the procedures in § 1355.39 of this chapter apply.

[48 FR 23117, May 23, 1983, as amended at 65 FR 4091, Jan. 25, 2000; 66 FR 58677, Nov. 23, 2001]

§ 1356.60 Fiscal requirements (title IV-E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments.* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV-E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with 45 CFR 1356.20 through 1356.30 of this part, section 472 of the Act and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with 45 CFR 1356.20 and 1356.40 and sections 473 and 475(3) of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act, Definitions, and pertinent regulations as promulgated by the Secretary, or his designee.

(b) *Federal matching funds for State and local training for foster care and adoption assistance under title IV-E.* (1) Federal financial participation is available at the rate of seventy-five percent (75%) in the costs of: